D.B.CIVIL SPECIAL APPEAL NO. 450/2006
State of Rajasthan & ors. v. Raees Ahmed Qureshi
D.B.CIVIL SPECIAL APPEAL NO. 558/2006
State of Rajasthan & ors. v. Akshay Singh Rathore
D.B.CIVIL SPECIAL APPEAL NO. 751/2006
State of Rajasthan & ors. v. Vijay Kumar Pareek

Date of order : 14.11.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Rameshwar Dave, Dy. Govt. Advocate for the appellants.
Shri P.S.Bhati for the respondents.

These three special appeals involve a common dispute and as such they were heard together and are disposed of by this common order.

The appeals are directed against the orders of the learned Single Judge in different writ petitions allowing the petitions of the respondents. The respondents had filed writ petitions for direction to allow them bonus marks for their participation in sports tournaments for the purpose of recruitment on the post of Physical Teacher Gr.III.

As per the advertisement issued on 28.7.2003, merit of the candidate was to be assessed on the basis of marks awarded for the secondary examination, senior secondary examination, C.P.Ed/D.P.Ed./B.P.Ed./B.P.E. examination and domicile. The total value of marks for these examinations and domicile was 100 allocated in the ratio mentioned in the advertisement. The advertisement

provided that for extra curricular achievements in NCC/Scout/Guide/Sports, Dance, Music etc. bonus marks "as prescribed" will be awarded on production of the certificate.

The case of the respondent in D.B.Civil Special Appeal no. 450/2006 is that he had participated in the inter college Kho-kho tournament held by Maharshi Dayanand Saraswati University, Ajmer. According to him the tournament in question was state level tournament for which he is entitled to 10 bonus marks. In D.B.Civil Special Appeal no. 558/2006, the respondent claims to have participated in the inter university west zone Hockey tournament held at Jiwaji University, Gwalior. In D.B.Civil Special Appeal no. 751/2006 the respondent claims to have participated in the inter university south/west zone Kho-kho tournament at Gulbarga University, Gulbarga. According to them the tournaments were national level tournament and for such participation they are entitled to 15 bonus marks but they have been allowed only 10 bonus marks treating the tournaments as state level tournaments.

It is relevant to mention here that selections were made in terms of a circular dated 31.7.2003. The circular laid down instructions/guidelines for appointment on the post of Physical Training Instructor Gr.III. The circular inter alia provided for 10 bonus marks for sports competitions held at the State level and 15

bonus marks for sports competitions held at national level. The State level competition was described to mean (a) '*Rajya Stariya Khel-kood Pratiyogita*' state level sports competition and (b) '*Vishwa Vidyalaya Zonal Khel-kood Pratiyogita*' i.e. university level sports competition. The national level competition was described to mean (a) national level universities sports competition, (b) university inter-zone competition and (c) all India international Universities competition in events in which zonal sports competitions are not held.

According to the respondent of D.B.Civil Special Appeal no. 450/2006 inter college Kho-kho tournament having been held at the university level it was a university level competition and therefore, he was entitled to 10 bonus marks but the same was denied to him. Similarly, the case of respondent of D.B.Civil Special Appeal nos. 558/2006 and 751/2006 is that competitions in which they participated were inter - university zonal competitions for which they were entitled to 15 bonus marks but they were allowed only 10 bonus marks treating the same as state level competition.

A similar controversy arose for consideration before this Court in D.B.Civil Special Appeal no. 195/2004 (Ganesha Ram v. State of Rajasthan & ors.). Interpreting the circular in question it was observed -

> "tournaments are organized by different universities some of which are held within the zone itself such as North Zone, East Zone, West Zone, South Zone while others are held between universities of different zones. Tournaments held between universities of the same zone qualify as "state level competition" for which 10 bonus marks are awarded and tournaments held between different universities of different zones qualify as "national level competition" and 15 bonus marks are awarded for the same."

The Court held as under -

> "to qualify for bonus marks, the tournament must be one in which different universities participate- either within the same zone or different zones. Participation in any competition between different universities within the same zone would fetch 10 bonus marks. Participation in any competition between universities of different zones will make the person eligible for award of 15 bonus marks."

That was a case of inter-college tournament and this Court rejected the claim of the petitioner observing that in the absence of any mention of inter-college tournament / competition in the circular dated 31.7.2003, he can not claim any bonus marks for participation in the concerned sports event. The case of the respondent of D.B.Civil Special Appeal no. 450/2006 on his own saying that he participated in an inter-college tournament is squarely covered by the said judgment and therefore must to be rejected.

Coming to the case of respondent of D.B.Civil Special Appeal no. 558/2006, as mentioned above, the respondent claims to have

participated in the inter - university west zone Hockey tournament held at Jiwaji University, Gwalior. As held in the case of Ganesha Ram (supra) participation in any competition between universities of different zones makes the person eligible for award of 15 bonus marks. It is not the case of the respondent that the tournament in question was between universities of different zones and therefore, we do not think, the respondent was entitled to 15 bonus marks. He has been awarded 10 bonus marks for such participation treating the tournament as state level tournament, and in our opinion rightly. As the tournament was between the universities but of the same zone i.e. west zone, the case of this respondent also therefore must be rejected.

Now coming to D.B.Civil Special Appeal no. 751/2006, the case of the respondent is that tournament in question was between universities of different zones, namely, south west zone held at Gulbarga University, Gulbarga and being an inter- university/ zonal tournament it should be treated as national level tournament for which he was entitled to 15 bonus marks. It was submitted that the respondent participated in the event as Captain of Maharshi Dayanand Saraswati University,Ajmer team. The said university falls in west zone and the fact that the tournament was held at Gulbarga University, Gulbarga falling within the south zone shows that it was an inter-zonal tournament. Counsel for the respondent referred to the

certificate issued by the Sports Board of the University i.e. Mahrishi Dayanand Saraswati University, Ajmer. The certificate after omitting the words scored out reads as under :

> "This is to certify that Vijay Kumar Pareek of S.D.Physical Training College, Kekri was selected to represent as Captain of the Maharshi Dayanand Saraswati University, Ajmer Kho-kho team in the inter University South Zone Kho-kho tournament held at Gulbarga Univ. Gulbarga in the year 2001-02."

It is pertinent to mention here that the certificate is in a printed proforma in which the names of the participant, the college, sports event and the university have been written by hand - in the blank portions as shown in the printed proforma. The certificate omitting the hand-written words but indicating the blanks runs as under :-

> "This is to certify that _____of _____ was selected to represent as _____of the Maharshi Dayanand Saraswati University, Ajmer _____team in the Inter University South/West Zone/Inter Zonal/All India _____ tournament held at _____in the year 19___."

It would appear that the words "south" and "west" are interjected by an oblique (/) mark. Indeed, it would appear from the proforma that words "Inter Zonal" and "All India" too are interjected by oblique (/) mark but they were scored out. It is relevant to point out the words "South" and "Zone" were given a tick mark ( ) which shows that the event was a South zone event. By scoring out the

words “Inter Zonal”, the doubt, if any, about the level of tournament - whether it was an intra or inter zonal tournament - stands removed. We have observed above that to qualify for 15 bonus marks the event must be between different universities of different zones. The submission that the respondent represented the Maharshi Dayanand Saraswati University, a university falling within west zone and the event being at Gulbarga University, Gulbarga, the tournament therefore should be held to be inter zonal tournament appears to be attractive but it is not possible to go behind the certificate. As mentioned at the outset, in terms of the advertisement dated 28.7.2003 bonus marks were to be awarded “on production of certificate”. The certificate therefore has to be taken on its face value. There is no averment in the writ petition that entries in the certificate are not correct. We are of the view that if the entries were not correctly made, the respondent should have taken steps to get the certificate corrected/amended. At this stage, without any pleading – muchless evidence on the point, it is not possible to accept the respondent's case that the tournament was inter - zonal tournament and award him 15 bonus marks on that basis. Case of this respondent also therefore has to be rejected.

Before we conclude, we would like to observe that where the selection is made mainly on the basis of academic qualifications by

awarding marks for the concerned qualifications/examinations (besides domicile) any provision for bonus marks which accounts for 10% or 15% of the total marks – the total value of marks being 100 – should be strictly construed . Such bonus mark is likely to materially affect the selection and prospects of other candidates. The object underlying such a provision no doubt is to give some advantage to bona fide sports-persons of standing but it is not an essential qualification though it may be additional qualification.

In the above premises, the direction of the learned Single Judge to award 10/15 bonus marks, as the case may be, to the respondents does not appear to be in accordance with law, which is accordingly set aside.

The appeals are thus allowed.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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